

REMARKS

Claims 1-14, 16-30, and 32-63 are pending in the application. In this response, claims 1, 16, 28, 32, 44, 47, 55, 58, 59, 61, and 62 have been amended and new dependent claim 63 has been added. Exemplary support for the claim amendments can be found at least in the original claims and specification.

Applicants respectfully request the Examiner to reconsider and withdraw the outstanding rejections in view of the foregoing amendments and the following remarks.

Claim Objection

Claim 57 has been objected to because the claim as drafted is allegedly somewhat confusing as it recites the hollow bodies a multitude of times. Applicants respectfully submit that the hollow body recited in claim 1 and the hollow bodies recited in claim 55 are the same. In view of at least the foregoing, Applicants respectfully submit that the objection to claim 55 should be withdrawn.

Rejection under 35 U.S.C. § 112

Claim 61 has been rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite. In particular, it is the Examiner's position that claim 61 recites a range within a range. Claim 61 has been amended to recite "A vessel as claimed in claim 59, wherein each body has a round, ~~preferably circular~~, cross section." New claim 63 has been added to recite "A vessel as claimed in claim 59, wherein each body has a circular cross section." Accordingly, Applicants respectfully submit that

the rejection of claim 61 under 35 U.S.C. § 112, second paragraph, should be withdrawn.

Rejections under 35 U.S.C. § 102

Initially, it should be noted that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

(i) Claims 1-11, 17, 18, 20, 26, 28, 36, 44, 48, 55-57, and 62 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 3,568,620 (hereinafter "Douglas"). The rejection is respectfully traversed.

Applicants respectfully submit that Douglas does not disclose a ballast tank. Applicants further respectfully submit that the Examiner's statement that the buckets of Douglas function as ballasts, and are therefore ballast tanks, does not appear to be correct. While the buckets of Douglas may act as ballast, Applicants respectfully submit that they are not tanks because a tank is something which is closable. In particular, it should be noted that the claims as amended recite a closable ballast tank. With regard to claim 44, Applicants respectfully submit that there is no disclosure in Douglas of an at least partially hollow tube comprising at least one closable ballast tank. In view of at least the foregoing, Applicants respectfully submit that the rejection over Douglas should be withdrawn.

(ii) Claims 1, 9-11, 15, 16, 25, 26-28, 30-32, 41, 44, 47, 58, and 62 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 2,895,300 (hereinafter "Hayward"). The rejection is respectfully traversed.

Applicants respectfully submit that Hayward does not disclose closable ballast tanks below the vessel, as presently recited. It is clear that in FIG. 6 of Hayward, the ballast tank is not below the vessel, despite being submerged underwater. Furthermore, Applicants respectfully submit that as the ballast tank in Hayward is resting on the sea bed, it is not suspended from the vessel, as neither the cable 31 nor the arms 27 are supporting the weight of the tanks, *i.e.*, suspending them.

Further, Applicants respectfully submit that with regard to claim 44, there is no explicit disclosure in Hayward of the submergible body including at least one projecting fin for increasing the drag of the body through the water. In view of at least the foregoing, Applicants respectfully submit that the rejection over Hayward should be withdrawn.

(iii) Claims 1-3, 9-12, 24, 27, 28, 36, 39, 40, 41, and 62 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 1,299,186 (hereinafter "Imaizumi"). The rejection is respectfully traversed.

Applicants respectfully submit that Imaizumi does not disclose a closable ballast tank. The Examiner's statement that the cone shaped buckets of Imaizumi function as ballasts, and are therefore ballast tanks, does not appear to be correct. While Imaizumi's cone shaped buckets may act as ballasts, they are not ballast tanks because the presently recited ballast tanks are closable and Imaizumi's

cone shaped buckets are not closable. In view of at least the foregoing, Applicants respectfully submit that the rejection over Imaizumi should be withdrawn.

Rejections under 35 U.S.C. § 103

Initially, it should be noted that the Office has the initial burden of establishing a **factual basis** to support the legal conclusion of obviousness. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). For rejections under 35 U.S.C. § 103(a) based upon a combination of prior art elements, in KSR Int'l v. Teleflex Inc., 127 S.Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007), the Supreme Court stated that "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some **articulated reasoning with some rational underpinning** to support the legal conclusion of obviousness." In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006) (emphasis added).

- (i) Claims 4-8, 13, 14, 29, 30 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Imaizumi. The rejection is respectfully traversed.

Applicants respectfully submit that Imaizumi does not disclose or suggest a closable ballast tank. The Examiner's statement that the cone shaped buckets of Imaizumi function as ballasts, and are therefore ballast tanks, does not appear to be correct. While Imaizumi's cone shaped buckets may act as ballasts, they are not ballast tanks because the presently recited ballast tanks are closable and Imaizumi's

cone shaped buckets are not closable. Moreover, Imaizumi does not suggest that the cone shaped buckets are closable. Accordingly, Applicants respectfully submit that Imaizumi does not disclose or suggest a closable ballast tank, as presently recited. In view of at least the foregoing, Applicants respectfully submit that the rejection over Imaizumi should be withdrawn.

(ii) Claims 13, 14, 19, 21-23, 29-30, 33-35, 37-39, 42, 43, 45, 46, and 49-54 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Douglas. The rejection is respectfully traversed.

Applicants respectfully submit that Douglas does not disclose or suggest a ballast tank. Applicants further respectfully submit that the Examiner's statement that the buckets of Douglas function as ballasts, and are therefore ballast tanks, does not appear to be correct. While the buckets of Douglas may act as ballast, Applicants respectfully submit that they are not tanks because a tank is something which is closable. In particular, it should be noted that the claims as amended recite a closable ballast tank.

With regard to claim 44, Applicants respectfully submit that there is no disclosure in Douglas of an at least partially hollow tube comprising at least one closable ballast tank.

In view of at least the foregoing, Applicants respectfully submit that the rejection over Douglas should be withdrawn.

(lii) Claims 12 and 59-61 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Hayward. The rejection is respectfully traversed.

Applicants respectfully submit that Hayward does not disclose or suggest closable ballast tanks below the vessel, as presently recited. It is clear that in FIG. 6 of Hayward, the ballast tank is not below the vessel, despite being submerged underwater. Furthermore, Applicants respectfully submit that as the ballast tank in Hayward is resting on the sea bed, it is not suspended from the vessel, as neither the cable 31 nor the arms 27 are supporting the weight of the tanks, *i.e.*, suspending them.

Further, Applicants respectfully submit that with regard to claim 44, there is no explicit disclosure in Hayward of the submergible body including at least one projecting fin for increasing the drag of the body through the water.

In view of at least the foregoing, Applicants respectfully submit that the rejection over Hayward should be withdrawn.

Conclusion

Applicants invite the Examiner to contact Applicants' representative at the telephone number listed below if any issues remain in this matter, or if a discussion regarding any portion of the application is desired by the Examiner.

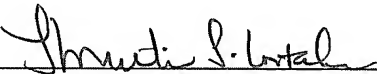
In the event that this paper is not timely filed within the currently set shortened statutory period, Applicants respectfully petition for an appropriate extension of time. The fees for such extension of time may be charged to our Deposit Account No. 02-4800.

In the event that any additional fees are due with this paper, please charge
our Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: August 7, 2008

By: 
Shruti S. Costales
Registration No. 56,333

Customer No. 21839
P.O. Box 1404
Alexandria, VA 22313-1404
(703) 836-6620